must submit with the application evidence of site control and the certification required by § 983.51(d)(5)(v). The HA must determine that construction (foundation work) has not begun. The HA must determine that the proposed initial gross rents are within the fair market rent limitation under § 983.202. The HA must also consider whether the property is eligible housing within the meaning of § 983.7; meets the other Federal requirements in § 983.11 and the site and neighborhood standards in § 983.6; will be constructed with other than assistance under the U.S. Housing Act of 1937 in accordance with § 983.9; and, in the case of projects of four or more units, whether any work items necessary to meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act of 1988 will be completed.

(b) Before executing an Agreement, the HA must contract with a State certified general appraiser and establish the rents in accordance with § 983.202 or seek and obtain the HUD-determined initial contract rents for any HA owned or controlled units or projects financed with a HUD insured or coinsured multifamily mortgage; seek and obtain subsidy layering contract rent reviews from HUD or a Housing Credit Agency; seek and obtain environmental clearance in accordance with § 983.11; and receive approval from the HUD field office to execute an Agreement pursuant to the reviews required in § 983.56.

(c) If the HA administering the ACC or an entity substantially controlled by the HA administering the ACC has submitted an application, the HA must submit to the HUD field office all owner applications in response to the advertisement. The HUD field office will select the owner applications to be funded from the applications received in response to the HA advertisement.

(d) If there are no HA-owned or controlled applicants, the HA must submit to the HUD field office for the site and neighborhood review only those applications determined by the HA to be eligible for further processing pursuant to paragraph (a) of this section, and must submit a certification to the HUD field office stating that the unit or units

were selected in accordance with the HA's approved unit selection policy. The HA's submission must not exceed the number of uncommitted units for which the HA is authorized to project-base assistance in connection with new construction. If the number of units contained in applications the HA has determined to be eligible for further processing exceeds the number for which the HA is authorized to project-base assistance, the HA may submit only the top-ranked applications.

(e) The HUD field office may terminate the Agreement or HAP contract upon at least 30 days written notice to the owner by HUD if the HUD field office determines that the units were not selected in accordance with the HA's approved written selection policy or that the units did not initially meet the HUD eligibility requirements.

(Approved by the Office of Management and Budget under control number 2577–0169)

[60 FR 34717, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995; 63 FR 23871, Apr. 30, 1998]

§ 983.56 New construction: HUD field office review of applications.

(a) The HUD field office must review the owner applications submitted by an HA to determine compliance with requirements concerning the site and neighborhood standards in § 983.6.

(b) The HUD field office must establish initial contract rents for any HA owned units or projects financed with a HUD insured or coinsured multifamily mortgage. HUD (or a Housing Credit Agency) must also conduct subsidy layering contract rent reviews.

(c) When the HA administering the ACC or an entity substantially controlled by the HA administering the ACC has submitted an application, the HA must submit to the HUD field office all owner applications in response to the advertisement. The HUD field office must review the owner applications and make the final selections based on the criteria in the HA selection policy approved by the HUD field office.

§ 983.57 New construction: Working drawings and specifications.

Before an Agreement is executed for new construction units, the owner

must submit the design architect's certification that the proposed new construction reflected in the working drawings and specifications complies with housing quality standards, local codes and ordinances, and zoning requirements.

(Approved by the Office of Management and Budget under control number 2577–0169)

[60 FR 34717, July 3, 1995, as amended at 60 FR 45661, Sept. 1, 1995]

Subpart C—Agreement and New Construction or Rehabilitation Period

§ 983.101 Agreement to enter into HAP contract, and contract rents in Agreement.

(a) *Agreement.* The HA must enter into an Agreement with the owner in the form prescribed by HUD for assistance provided under this part 983. The Agreement must be executed before the start of any new construction or rehabilitation. Under the Agreement, the owner agrees to construct the units in accordance with the HA-approved working drawings and specifications or to rehabilitate the units in accordance with the HA-approved work write-ups.

(b) *Contract rents in Agreement.* The Agreement must list the initial contract rents that will apply to the units after they are constructed or rehabilitated. The amounts of the contract rents that are listed in the Agreement or, if applicable, as lowered under § 983.103(c), must be the initial contract rents upon execution of the HAP contract. These initial contract rents may only be increased if:

(1) The project is financed with a HUD insured or coinsured multifamily mortgage;

(2) The initial contract rents listed in the Agreement were based on the amount determined by HUD to be necessary to amortize the insured or coinsured mortgage; and

(3) The HUD field office approves a cost increase prior to closing. In such a case, the HUD field office may redetermine the initial contract rents in accordance with § 983.202 except that the field office may use the comparable rents originally used in processing the insured or coinsured mortgage in lieu

of the amount determined in accordance with § 983.202.

[60 FR 34717, July 3, 1995, as amended at 63 FR 23871, Apr. 30, 1998]

§ 983.102 Owner selection of contractor.

The owner is responsible for selecting a competent contractor to undertake the new construction or rehabilitation work under the Agreement. The owner may not award contracts to, otherwise engage the services of, or fund any contractor or subcontractor, to perform such work, that fails to provide a certification that neither it nor its principals is presently debarred, suspended, or placed in ineligibility status under 24 CFR part 24, or is on the list of ineligible contractors or subcontractors established and maintained by the Comptroller General under 29 CFR part 5. The HA must promote opportunities for minority contractors to participate in the program.

§ 983.103 New construction or rehabilitation period.

(a) *Timely performance of work.* After the Agreement has been executed, the owner must promptly proceed with the construction or rehabilitation work as provided in the Agreement. In the event the work is not so commenced, diligently continued, or completed, the HA may terminate the Agreement or take other appropriate action.

(b) *Inspections.* The HA must inspect during construction or rehabilitation to ensure that work is proceeding on schedule and is being accomplished in accordance with the terms of the Agreement. The inspection must be carried out to ensure that the work meets the types of materials specified in the work write-ups or working drawings and specifications, and meets typical levels of workmanship in the area.

(c) *Changes.* The owner must obtain prior HA approval for any changes from the work specified in the Agreement that would alter the design or the quality of the required new construction or rehabilitation. The HA may disapprove any changes requested by the owner. HA approval of changes may be conditioned on establishing lower initial contract rents in the amount determined by the HA (or the HUD field

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